

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, Individually and on
behalf of all others similarly situated,

Plaintiff,

v.

RIOT BLOCKCHAIN, INC. F/K/A, BIOPTIX,
INC., JOHN O'ROURKE, and JEFFREY G.
MCGONEGAL,

Defendants.

Civil Action No.: 18-2293-GC-RLS

CONSOLIDATED ACTION

**STIPULATION AND
[PROPOSED] ORDER**

Lead Plaintiff Dr. Stanley Golovac (“Lead Plaintiff”) and Defendants Riot Blockchain, Inc. (“Riot”), John O’Rourke, Michael Beeghley, and Barry Honig (together “Defendants,” and together with Lead Plaintiff, the “Parties”), by and through their undersigned counsel, hereby agree and jointly propose this stipulation:

WHEREAS, on February 17, 2018, Creighton Takata (“Takata”) initiated the above captioned action against Riot, O’Rourke, and Jeffrey McGonegal, alleging violations of the Securities Exchange Act of 1934 (ECF No. 1);

WHEREAS, the Court appointed Dr. Stanley Golovac as Lead Plaintiff and the law firm of Motley Rice LLC as Lead Counsel on November 6, 2018 (ECF No. 40);

WHEREAS, Lead Plaintiff filed a Complaint against Riot, Honig, O'Rourke, McGonegal, and Beeghley on January 15, 2019 (ECF No. 52);

WHEREAS, Riot, Honig, O'Rourke, McGonegal, and Beeghley moved to dismiss the Complaint on March 18, 2019 (ECF Nos. 66, 67);

WHEREAS, Lead Plaintiff filed a Consolidated Amended Class Action Complaint for alleged violations of federal securities laws on May 8, 2019 (ECF No. 72), adding Catherine

DeFrancesco, John Stetson, Mark Groussman, Andrew Kaplan, Mike Dai, Jason Les, and Eric So to the action;

WHEREAS, Lead Plaintiff filed a corrected Consolidated Amended Class Action Complaint (the “Amended Complaint”) on May 9, 2019 (ECF No. 73);

WHEREAS, Defendants, DeFrancesco, Stetson, Groussman, Kaplan, Dai, Les, and So filed motions to dismiss the Amended Complaint on September 3 (ECF Nos. 107, 108, 112), September 5 (ECF No. 118), September 30 (ECF Nos. 131, 132), and October 1, 2019 (ECF No. 134);

WHEREAS, Chief Judge Freda L. Wolfson dismissed the Amended Complaint without prejudice in an Order dated April 30, 2020 (ECF No. 167);

WHEREAS, Magistrate Judge Zahid N. Quraishi granted Lead Plaintiff leave to file a Consolidated Second Amended Class Action Complaint (the “Second Amended Complaint”) in a Memorandum Opinion and Order dated December 23, 2020 (ECF No. 187);

WHEREAS, Lead Plaintiff filed the Second Amended Complaint on December 24, 2020 (ECF No. 188), naming Defendants, Groussman, DeFrancesco, and Stetson, and omitting Kaplan, Dai, Les, and So;

WHEREAS, Defendants, Groussman, DeFrancesco, and Stetson filed motions to dismiss the Second Amended Complaint on February 8, 2021 (ECF Nos. 192, 194, 195, 196, 197);

WHEREAS, Judge Zahid N. Quraishi requested supplemental briefing on Defendants, Groussman, DeFrancesco, and Stetson’s motions to dismiss on February 28, 2022 (ECF No. 216), which the Parties submitted on March 14, 2022 (ECF Nos. 217-222);

WHEREAS, Judge Zahid N. Quraishi dismissed the Second Amended Complaint without prejudice in an Opinion (ECF No. 223) and Order (ECF No. 224) dated April 8, 2022, in which it

was ordered that Lead Plaintiff may file a separate motion seeking leave to amend the Complaint in a manner consistent with the Opinion;

WHEREAS, Lead Plaintiff filed a Motion for Leave to File [Proposed] Consolidated Third Amended Class Action Complaint for Violations of the Federal Securities Laws (“Motion for Leave to Amend”) (ECF No. 228) on May 9, 2022, with the proposed complaint now naming only Defendants, and omitting Groussman, DeFrancesco, and Stetson;

WHEREAS, Defendants believe that the viability of Lead Plaintiff’s [Proposed] Consolidated Third Amended Class Action Complaint for Violations of the Federal Securities Laws (“Third Amended Complaint”) should be evaluated by the pleadings standards contained in the Private Securities Litigation Reform Act (“PSLRA”) through a motion to dismiss, and that stipulating to permit Lead Plaintiff to file the Third Amended Complaint promotes judicial economy and efficiency and saves the Parties the cost of preparing and filing oppositions to, and replies in further support of, Lead Plaintiff’s Motion for Leave to Amend;

WHEREAS, Defendants believe that Lead Plaintiff’s Third Amended Complaint is nonetheless deficient under the PSLRA and Rule 9(b) and, thus, intend to file motion(s) to dismiss Lead Plaintiff’s Third Amended Complaint;

THEREFORE, IT IS HEREBY STIPULATED AND AGREED, among the Parties, subject to the Court’s approval, that:

1. Lead Plaintiff may file the Third Amended Complaint on or before May 27, 2022;
2. Defendants shall move to dismiss the Third Amended Complaint on or before July 18, 2022;
3. Lead Plaintiff shall file oppositions to any motions to dismiss on or before September 1, 2022;

4. Defendants shall file replies to Lead Plaintiff's oppositions on or before October 3, 2022.

Dated: May 23, 2022

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Counsel for Defendant Barry Honig

SO ORDERED this ____ day of _____, 2022.

Honorable Judge Georgette Castner